



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT
100 PENN SQUARE EAST
PHILADELPHIA PENNSYLVANIA 19107-3390

July 21, 2021

Regulatory Branch

SUBJECT: Approved Jurisdictional Determination NAP-2021-00347-96
PADOT 6 SR 663 and Allentown Road BU
Center coordinates (40.438664°, -75.399481°)

David Fischer
Pennsylvania Department of Transportation
PADOT District 6
7000 Geerdes Boulevard
King of Prussia, Pennsylvania 19406

Dear Mr. Fischer:

This Approved Jurisdictional Determination (AJD) is provided in response to your request on April 1, 2021 for a determination of Federal jurisdiction by this office. The site associated with your request is located in Millford Township, Bucks County, Pennsylvania.

The findings of this AJD are documented in the **enclosed** AJD Form. The findings are also depicted on the **enclosed** plan(s) identified as "Figure 3A Wetlands and Waterways Map", prepared by A.D. Marble, January 19, 2021, unrevised, sheet(s) 1 through 5.

A Department of the Army permit is required for work or structures in "navigable waters of the United States" pursuant to Section 10 the Rivers and Harbors Act (RHA) of 1899 and the discharge of dredged or fill material into "waters of the United States" pursuant to Section 404 of the Clean Water Act (CWA). Any proposal to perform these activities within areas of Federal jurisdiction requires prior approval by this office.

Food Security Act statement: The delineation included herein has been conducted to identify the location and extent of the aquatic resource boundaries and/or the jurisdictional status of aquatic resources for purposes of the Clean Water Act for the particular site identified in this request. This delineation and/or jurisdictional determination may not be valid for the Wetland Conservation Provisions of the Food Security Act of 1985, as amended. If you or your tenant are USDA program participants, or anticipate participation in USDA programs, you should discuss the applicability of a certified wetland determination with the local USDA service center, prior to starting work.

This AJD is valid for a period of five (5) years. This AJD is issued in accordance with current Federal regulations and is based upon the existing site conditions and information provided by you in your application. This office reserves the right to

reevaluate and modify this AJD at any time should the existing site conditions or Federal regulations change, or should the information provided by you prove to be false, incomplete or inaccurate.

You may request an administrative appeal of this AJD if you **do not** accept this determination. **Enclosed** you will find a combined Notification of Appeal Process (NAP) and Request for Appeal (RFA) form. If you request to appeal this determination, you must submit a completed RFA form to the North Atlantic Division Office at the following address:

Ms. Naomi J. Handell
Regulatory Program Manager (CENAD-PD-OR)
North Atlantic Division, U.S. Army Corps of Engineers
Fort Hamilton Military Community
General Lee Avenue, Building 301
Brooklyn, NY 11252-6700

In order for an RFA to be accepted by the Corps, the Corps must determine that it is complete, that it meets the criteria for appeal under 33 CFR Part 331.5 and that it has been received by the Division Office within 60 days of the date of the NAP. Should you decide to submit an RFA form, it must be received at the above address by

September 20, 2021.

If you have any questions regarding this matter, please contact Nikolas Tranchik at 215-656-5859 or Nikolas.P.Tranchik@usace.army.mil.

Sincerely,

Robert Youhas
Biologist, Application Section II

Enclosures

1. Approved Jurisdictional Determination Form
2. Project Plans
3. Notification of Appeal Process (NAP) and Request for Appeal (RFA) form

cc:

Dave Fischer, PADOT District 6 (DAVFISCHER@pa.gov)
Southeast Regional Offices, PADEP (rsharp@pa.gov)
Consultant (A.D. Marble), Xavier Riva (xriva@admarble.com)
Consultant (A.D. Marble), Kristen Sommers (KSommers@admarble.com)

ENCLOSURE 1



**U.S. ARMY CORPS OF ENGINEERS
REGULATORY PROGRAM
APPROVED JURISDICTIONAL DETERMINATION FORM (INTERIM)
NAVIGABLE WATERS PROTECTION RULE**

I. ADMINISTRATIVE INFORMATION

Completion Date of Approved Jurisdictional Determination (AJD): 7/21/2021
 ORM Number: CENAP-OPR-2021-00347-96
 Associated JDs: 2007-00810-60
 Review Area Location¹: State/Territory: Pennsylvania City: Millford County/Parish/Borough: Bucks County
 Center Coordinates of Review Area: Latitude 40.438664 Longitude -75.399481

II. FINDINGS

A. Summary: Check all that apply. At least one box from the following list MUST be selected. Complete the corresponding sections/tables and summarize data sources.

- The review area is comprised entirely of dry land (i.e., there are no waters or water features, including wetlands, of any kind in the entire review area). Rationale: N/A
- There are “navigable waters of the United States” within Rivers and Harbors Act jurisdiction within the review area (complete table in Section II.B).
- There are “waters of the United States” within Clean Water Act jurisdiction within the review area (complete appropriate tables in Section II.C).
- There are waters or water features excluded from Clean Water Act jurisdiction within the review area (complete table in Section II.D).

B. Rivers and Harbors Act of 1899 Section 10 (§ 10)²

§ 10 Name	§ 10 Size		§ 10 Criteria	Rationale for § 10 Determination
N/A	N/A.	N/A	N/A.	N/A.

C. Clean Water Act Section 404

Territorial Seas and Traditional Navigable Waters ((a)(1) waters): ³				
(a)(1) Name	(a)(1) Size		(a)(1) Criteria	Rationale for (a)(1) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

¹ Map(s)/figure(s) are attached to the AJD provided to the requestor.

² If the navigable water is not subject to the ebb and flow of the tide or included on the District's list of Rivers and Harbors Act Section 10 navigable waters list, do NOT use this document to make the determination. The District must continue to follow the procedure outlined in 33 CFR part 329.14 to make a Rivers and Harbors Act Section 10 navigability determination.

³ A stand-alone TNW determination is completed independently of a request for an AJD. A stand-alone TNW determination is conducted for a specific segment of river or stream or other type of waterbody, such as a lake, where upstream or downstream limits or lake borders are established. A stand-alone TNW determination should be completed following applicable guidance and should NOT be documented on the AJD Form.



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Tributaries ((a)(2) waters):				
(a)(2) Name	(a)(2) Size		(a)(2) Criteria	Rationale for (a)(2) Determination
Stream 1	242	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial waterway known as UNT to Licking Creek which flows into the Unami Creek, the Perkiomen Creek, the Schuylkill River, and then the Delaware River.
Stream 2	309	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial waterway known as Licking Creek which flows into the Unami Creek, the Perkiomen Creek, the Schuylkill River, and then the Delaware River.
Stream 3	692	linear feet	(a)(2) Perennial tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Perennial waterway known as Unami Creek that flows into the Perkiomen Creek, the Schuylkill River, and then the Delaware River.
Stream 4	29	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent waterway known as UNT to Licking Creek which flows into the Unami Creek, the Perkiomen Creek, the Schuylkill River, and then the Delaware River.
Stream 5	87	linear feet	(a)(2) Intermittent tributary contributes surface water flow directly or indirectly to an (a)(1) water in a typical year.	Intermittent waterway known as Unami Creek that flows into the Perkiomen Creek, the Schuylkill River, and then the Delaware River.

Lakes and ponds, and impoundments of jurisdictional waters ((a)(3) waters):				
(a)(3) Name	(a)(3) Size		(a)(3) Criteria	Rationale for (a)(3) Determination
N/A.	N/A.	N/A.	N/A.	N/A.

Adjacent wetlands ((a)(4) waters):				
(a)(4) Name	(a)(4) Size		(a)(4) Criteria	Rationale for (a)(4) Determination
Wetland 2	0.013	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts an (a)(1)-(a)(3) water.
Wetland 3	0.072	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts an (a)(1)-(a)(3) water.
Wetland 4	0.011	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts an (a)(1)-(a)(3) water.
Wetland 5	0.038	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.	Wetland abuts an (a)(1)-(a)(3) water.
Wetland 11	0.032	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure	Wetland with a direct hydrological connection to an (a)(1)-(a)(3) water.



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Adjacent wetlands ((a)(4) waters):			
(a)(4) Name	(a)(4) Size	(a)(4) Criteria	Rationale for (a)(4) Determination
		allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.	
Wetland 13	0.003	acre(s)	(a)(4) Wetland separated from an (a)(1)-(a)(3) water only by an artificial structure allowing a direct hydrologic surface connection between the wetland and the (a)(1)-(a)(3) water, in a typical year.
Wetland 14	0.004	acre(s)	(a)(4) Wetland abuts an (a)(1)-(a)(3) water.

D. Excluded Waters or Features

Excluded waters ((b)(1) – (b)(12)): ⁴			
Exclusion Name	Exclusion Size	Exclusion ⁵	Rationale for Exclusion Determination
Wetland 7	594	linear feet	(b)(1) Non-adjacent wetland.
Wetland 9	196	linear feet	(b)(1) Non-adjacent wetland.
Wetland 10	500	linear feet	(b)(1) Non-adjacent wetland.
Wetland 15	422	linear feet	(b)(10) Stormwater control feature constructed or excavated in upland or in a non-

⁴ Some excluded waters, such as (b)(2) and (b)(4), may not be specifically identified on the AJD form unless a requestor specifically asks a Corps district to do so. Corps districts may, in case-by-case instances, choose to identify some or all of these waters within the review area.

⁵ Because of the broad nature of the (b)(1) exclusion and in an effort to collect data on specific types of waters that would be covered by the (b)(1) exclusion, four sub-categories of (b)(1) exclusions were administratively created for the purposes of the AJD Form. These four sub-categories are not new exclusions, but are simply administrative distinctions and remain (b)(1) exclusions as defined by the NWPR.



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Excluded waters ((b)(1) – (b)(12)): ⁴				
Exclusion Name	Exclusion Size		Exclusion ⁵	Rationale for Exclusion Determination
			jurisdictional water to convey, treat, infiltrate, or store stormwater runoff.	
Wetland 16	0.021	linear feet	(b)(4) Diffuse stormwater run-off over upland or directional sheet flow over upland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland 17	0.021	linear feet	(b)(4) Diffuse stormwater run-off over upland or directional sheet flow over upland.	Wetland with no observed surface hydrological connection to a water of the United States.
Wetland 18	0.021	linear feet	(b)(1) Non-adjacent wetland.	This wetland was determined to have no hydrological connection to an (a)(1)-(a)(3) water.

III. SUPPORTING INFORMATION

A. Select/enter all resources that were used to aid in this determination and attach data/maps to this document and/or references/citations in the administrative record, as appropriate.

Information submitted by, or on behalf of, the applicant/consultant: [Information submitted by A.D. Marble on May 11, 2021.](#)

This information is sufficient for purposes of this AJD.

Rationale: [N/A](#)

- Data sheets prepared by the Corps: [Title\(s\) and/or date\(s\).](#)
- Photographs: [Other: Attachment E; Photographs 1 through 23, dated September 2020](#)
- Corps site visit(s) conducted on: [May 10, 2021 and May 24, 2021](#)
- Previous Jurisdictional Determinations (AJDs or PJDs): [2007-00810-60](#)
- Antecedent Precipitation Tool: [provide detailed discussion in Section III.B.](#)
- USDA NRCS Soil Survey: [Figure 2. Soils and NWI Map, S.R. 0663, Section VY2 Intersection Improvements Milford Townships, Bucks County, Pennsylvania](#)
- USFWS NWI maps: [Figure 2. NWI and Soils Map; dated 2020](#)
- USGS topographic maps: [Figure 1. Project Location Map](#)

Other data sources used to aid in this determination:

Data Source (select)	Name and/or date and other relevant information
USGS Sources	N/A.
USDA Sources	N/A.
NOAA Sources	N/A.
USACE Sources	N/A.
State/Local/Tribal Sources	N/A.
Other Sources	Aerial imagery from Google Earth & Google Maps



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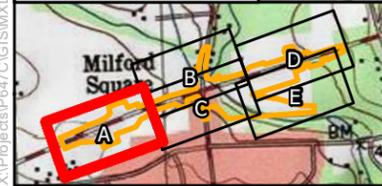
- B. Typical year assessment(s):** The Antecedent Precipitation Tool was used to determine hydrologic site conditions. The analysis resulted in a Condition Value of 9, which is considered Drier than Normal. Therefore, Dry Conditions existed at the time of the site visit.
- C. Additional comments to support AJD:** N/A.

ENCLOSURE 2



Imagery Source: PEMA, 2018

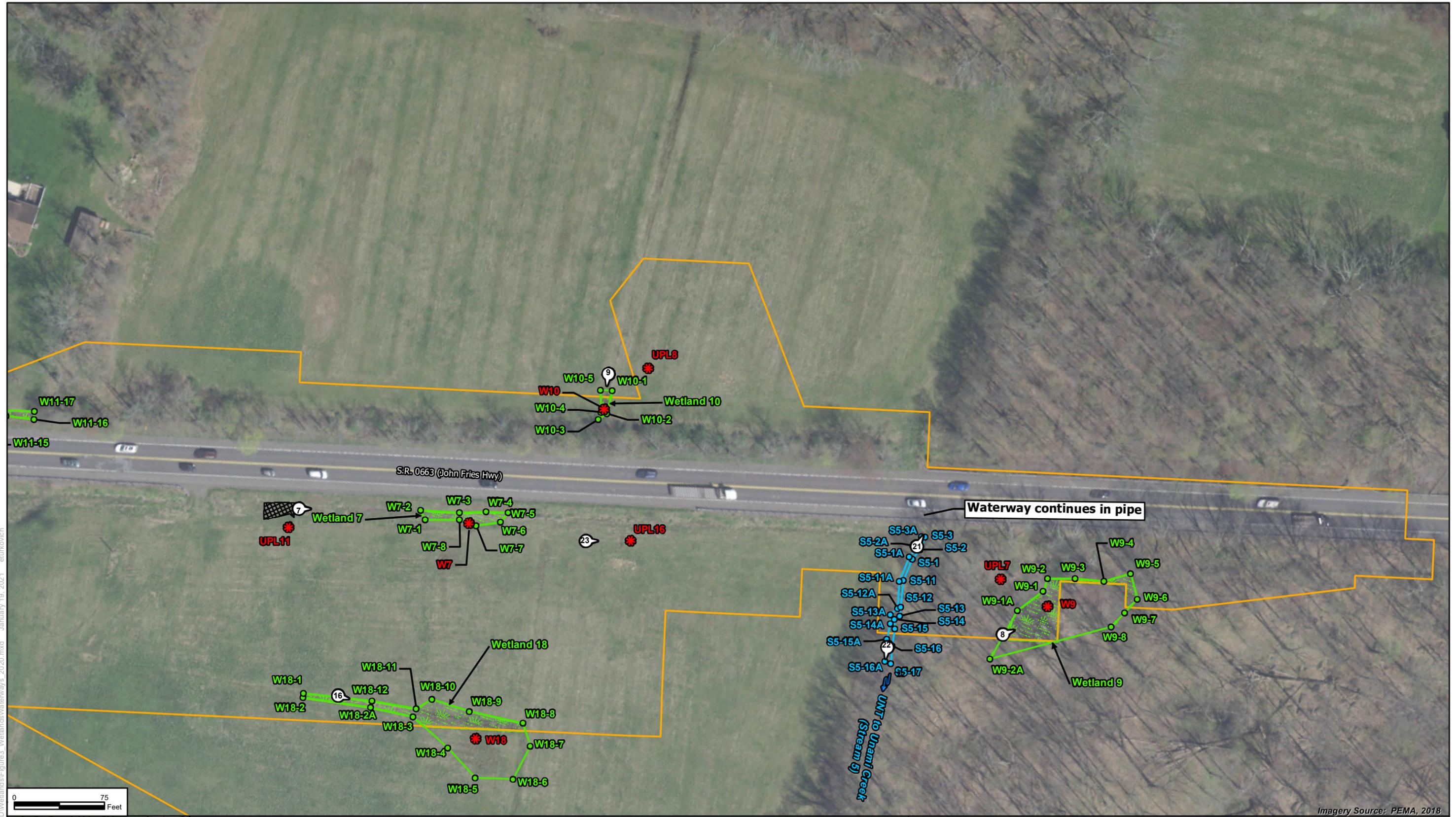
X:\Projects\1647C\GIS\Map\Wetlands\Figure3_WetlandsWaterways_2020.mxd January 19, 2021 eturkovich



- Project Study Area
- Stream Flag
- Wetland Flag
- Delineated Stream Boundary
- Delineated Wetland Boundary
- Delineated Wetland
- * Data Point
- Gravel Access

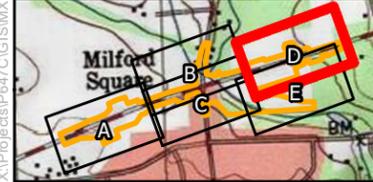
Data Source: Dewberry, '663lodpd01.dgn,' 9-3-2020; '663wtex01.dgn, 11-27-2020

Figure 3A
Wetlands and Waterways Map
 S.R. 0663, Section VY2 Intersection Improvements
 Milford Township, Bucks County, Pennsylvania



Imagery Source: PEMA, 2018

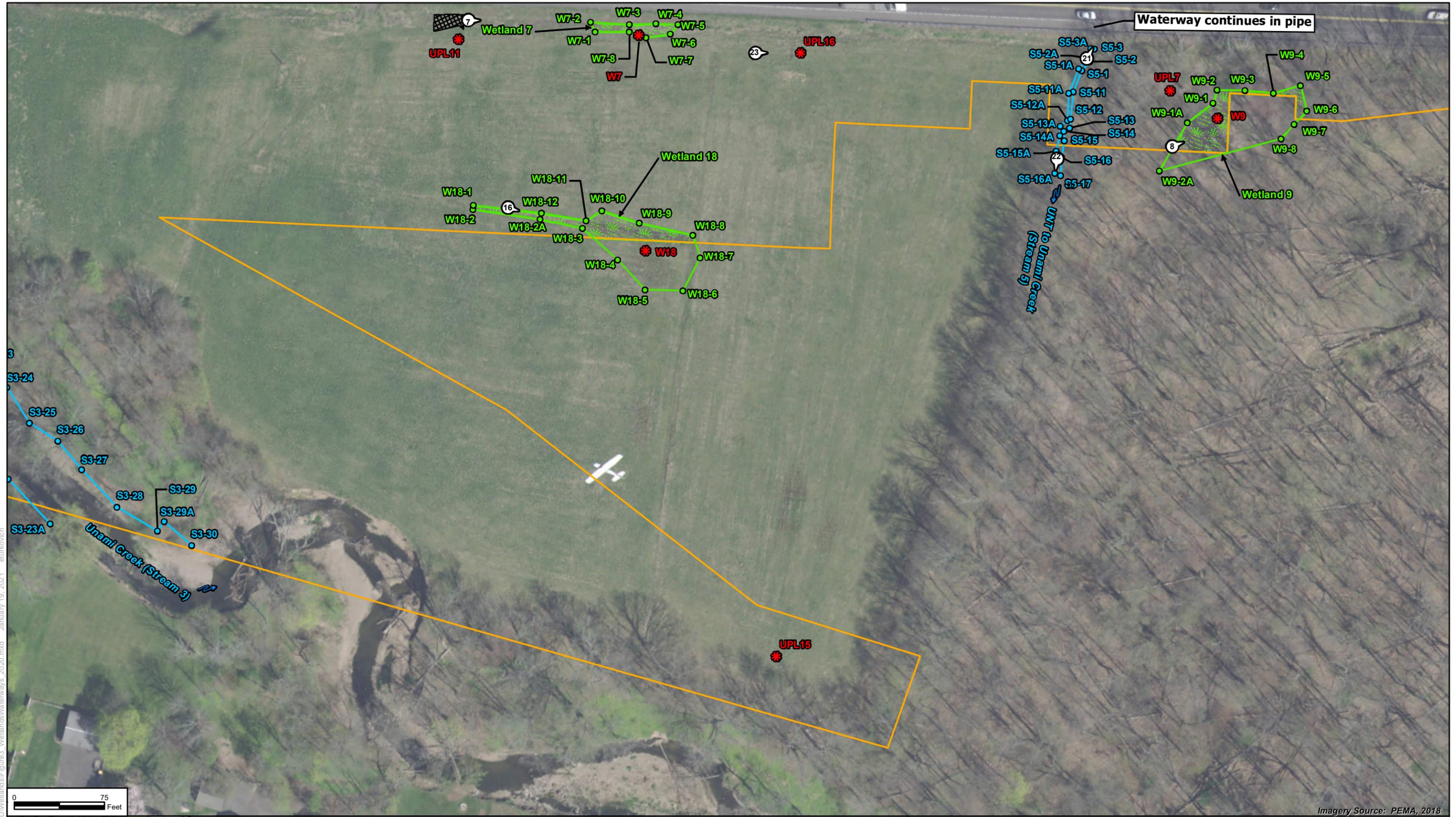
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- | | | |
|--------------------|-----------------------------|---------------|
| Project Study Area | Delineated Stream Boundary | Data Point |
| Stream Flag | Delineated Wetland Boundary | Gravel Access |
| Wetland Flag | Delineated Wetland | |

Data Source: Dewberry, '663lodpd01.dgn,' 9-3-2020; '663wtex01.dgn,' 11-27-2020

Figure 3D
Wetlands and Waterways Map
 S.R. 0663, Section VY2 Intersection Improvements
 Milford Township, Bucks County, Pennsylvania



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Imagery Source: PEMA, 2018



- | | | |
|--------------------|-----------------------------|---------------|
| Project Study Area | Delineated Stream Boundary | Data Point |
| Stream Flag | Delineated Wetland Boundary | Gravel Access |
| Wetland Flag | Delineated Wetland | |

Data Source: Dewberry, '663lodpd01.dgn,' 9-3-2020; '663wtex01.dgn,' 11-27-2020

Figure 3E
Wetlands and Waterways Map

S.R. 0663, Section VY2 Intersection Improvements
Milford Township, Bucks County, Pennsylvania

ENCLOSURE 3

NOTIFICATION OF ADMINISTRATIVE APPEAL OPTIONS AND PROCESS AND REQUEST FOR APPEAL

Applicant: PADOT District 6		File Number: NAP 2021-00347-96	Date: July 21, 2021
Attached is:			See Section below
	INITIAL PROFFERED PERMIT (Standard Permit or Letter of permission)		A
	PROFFERED PERMIT (Standard Permit or Letter of permission)		B
	PERMIT DENIAL		C
X	APPROVED JURISDICTIONAL DETERMINATION		D
	PRELIMINARY JURISDICTIONAL DETERMINATION		E

SECTION I - The following identifies your rights and options regarding an administrative appeal of the above decision. Additional information may be found at <http://www.usace.army.mil/Missions/CivilWorks/RegulatoryProgramandPermits/appeals.aspx> or Corps regulations at 33 CFR Part 331.

A: INITIAL PROFFERED PERMIT: You may accept or object to the permit.

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **OBJECT:** If you object to the permit (Standard or LOP) because of certain terms and conditions therein, you may request that the permit be modified accordingly. You must complete Section II of this form and return the form to the district engineer. Your objections must be received by the district engineer within 60 days of the date of this notice, or you will forfeit your right to appeal the permit in the future. Upon receipt of your letter, the district engineer will evaluate your objections and may: (a) modify the permit to address all of your concerns, (b) modify the permit to address some of your objections, or (c) not modify the permit having determined that the permit should be issued as previously written. After evaluating your objections, the district engineer will send you a proffered permit for your reconsideration, as indicated in Section B below.

B: PROFFERED PERMIT: You may accept or appeal the permit

- **ACCEPT:** If you received a Standard Permit, you may sign the permit document and return it to the district engineer for final authorization. If you received a Letter of Permission (LOP), you may accept the LOP and your work is authorized. Your signature on the Standard Permit or acceptance of the LOP means that you accept the permit in its entirety, and waive all rights to appeal the permit, including its terms and conditions, and approved jurisdictional determinations associated with the permit.
- **APPEAL:** If you choose to decline the proffered permit (Standard or LOP) because of certain terms and conditions therein, you may appeal the declined permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

C: PERMIT DENIAL: You may appeal the denial of a permit under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

D: APPROVED JURISDICTIONAL DETERMINATION: You may accept or appeal the approved JD or provide new information.

- **ACCEPT:** You do not need to notify the Corps to accept an approved JD. Failure to notify the Corps within 60 days of the date of this notice, means that you accept the approved JD in its entirety, and waive all rights to appeal the approved JD.
- **APPEAL:** If you disagree with the approved JD, you may appeal the approved JD under the Corps of Engineers Administrative Appeal Process by completing Section II of this form and sending the form to the division engineer. This form must be received by the division engineer within 60 days of the date of this notice.

E: PRELIMINARY JURISDICTIONAL DETERMINATION: You do not need to respond to the Corps regarding the preliminary JD. The Preliminary JD is not appealable. If you wish, you may request an approved JD (which may be appealed), by contacting the Corps district for further instruction. Also you may provide new information for further consideration by the Corps to reevaluate the JD.

SECTION II - REQUEST FOR APPEAL or OBJECTIONS TO AN INITIAL PROFFERED PERMIT

REASONS FOR APPEAL OR OBJECTIONS: (Describe your reasons for appealing the decision or your objections to an initial proffered permit in clear concise statements. You may attach additional information to this form to clarify where your reasons or objections are addressed in the administrative record.)

ADDITIONAL INFORMATION: The appeal is limited to a review of the administrative record, the Corps memorandum for the record of the appeal conference or meeting, and any supplemental information that the review officer has determined is needed to clarify the administrative record. Neither the appellant nor the Corps may add new information or analyses to the record. However, you may provide additional information to clarify the location of information that is already in the administrative record.

POINT OF CONTACT FOR QUESTIONS OR INFORMATION:

If you have questions regarding this decision and/or the appeal process you may contact:
Nikolas Tranchik
Regulatory Project Manager
U.S. Army Corps of Engineers
100 Penn Square East
Philadelphia, Pennsylvania 19107-3390
Nikolas.P.Tranchik@usace.army.mil

If you only have questions regarding the appeal process you may also contact:
Ms. Naomi J. Handell
Regulatory Program Manager (CENAD-PD-OR)
U.S. Army Corps of Engineers
Fort Hamilton Military Community
301 General Lee Avenue
Brooklyn, New York 11252-6700
Telephone number: 917-789-4841

RIGHT OF ENTRY: Your signature below grants the right of entry to Corps of Engineers personnel, and any government consultants, to conduct investigations of the project site during the course of the appeal process. You will be provided a 15 day notice of any site investigation, and will have the opportunity to participate in all site investigations.

Signature of appellant or agent.

Date:

Telephone number: